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REMARKS

The Examiner has rejected claims 1-15 under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner states that:

"As for claim 1, the disclosure, when filed, does not contain sufficient information as to the claimed features, 'a color shift from one preselected color to another preselected color is repeatedly performed while changing said one preselected color and said another preselected color until an optimum color therapy program of the correct colors and gradation shift is determined.' The disclosure, specifically, the description on page 10, lines 1-6, cites the effect of the color therapy will be observed by the clinician who will determine whether or not the therapy is now at an optimum level'. However, nowhere in the specification describes how this determination is made by the clinician. Thus, without any objective criteria to determine when an optimum level is reached, one of ordinary skill in the art simply cannot make and use the invention."

In reply thereto, Applicant directs the Examiner's attention to page 8, paragraph number 2, page 9, paragraph number 4 and page 10, lines 3 and 4. With reference to the above, Applicant respectfully submits that the proper standard to be applied for the clinician is one of ordinary skill in the art, which Applicant believes is admitted and accepted by the Examiner. Generally, Applicant respectfully submits that a clinician who is of ordinary skill in the art would use medically accepted standard diagnostic tools and objective testing associated with the visual diagnostic arts, as well as patient self-report and/or demonstration of relief or abatement of symptoms upon or after use of the color therapy. Diagnostic tools which would be well known to one of ordinary skill in the visual diagnostic arts include, but are not limited to, retinoscopy, refraction, phoria tests, duction range tests, accommodative amplitude tests, accommodative facility testing, color tests, depth perception tests, fixation disparity tests, perceptual-motor test, visual acuity tests, visual field tests and visual evoked potentials.

Still further, the patient's self-report and demonstration would indicate to the clinician when adjustment of color sequence provides optimal color therapy for the patient. Such a response by a clinician to the patient self-report and demonstration would be within the ordinary skill in the art of visual diagnostics.

In addition to the above, Applicant respectfully submits that within the color and light therapy art, ample studies exist on the value of selected colors or wavelengths of light within the

treatment of numerous fields that employ color therapy. Of the specialties that treat using colored light therapy, one of ordinary skill in the art would be familiar with the specific color light research pertinent to their field that would be implemented in whatever manner they may currently apply colored light therapy.

By way of example, dermatologists use various combinations of red, blue and green light therapy to address reducing inflammation, eliminating bacteria and promoting healing and fading of existing blemishes. Seasonal Affective Disorder is treated by utilizing the blue spectrum, particularly in the wavelength of 446-477 nm. Also, the Society for Research in Biological Rhythms has determined that blue spectrum light at 464 nm is effective in regulating circadian rhythms. Still further, jaundice is treated with specific wavelength of light from blue fluorescent lamps called bili lights (see Medline, www.nlm.nih.gov/medlineplus/ency/article/002394.htm).

Also, Applicant respectfully submits that one of ordinary skill in the art of visual diagnostics would be familiar with Syntonic Optometry and Syntonic Phototherapy and would refer to a Syntonic Basic Filter chart for guideline of symptoms and a broad base of suggested colors to treat those symptoms and would decide to either expose the patient to the entire spectrum of that color or a portion thereof or shift between one color and another. For example, according to the Syntonic scale, the red-orange wavelength range might be used in the treatment of lazy eye, yellow for endocrine and physiologically based treatments, turquoise for pain and for recent head trauma, indigo for headaches, and ruby for mood swings and adrenal issues. Such knowledge is within one of ordinary skill in the visual diagnostic art.

Applicant further respectfully submits that in view of the above knowledge, which one of ordinary skill in the art of visual diagnostics would know, Applicant respectfully submits that the colors to treat a particular condition would be selected by the clinician and Applicant's invention would allow the clinician to pinpoint the precise color or hue which has the optimal effect upon the patient based upon standard diagnostic tools and objective testing associated with the visual diagnostic arts as well as the patient's self-report and/or demonstration or relief or abatement of symptoms upon or after use of the color therapy.

In view of the above, therefore, Applicant respectfully submits that a clinician who is of ordinary skill in the art would know how to perform the required color shift of claim 1 of the preselected colors and determine the optimal values or levels. Accordingly, Applicant

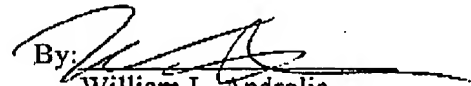
respectfully submits that claims 1-15 are enabled and comply with the requirements of 35 USC 112, first paragraph.

In view of the above, therefore, it is respectfully requested that this Request for Reconsideration be carefully considered by the Examiner and the finality of the rejection withdrawn and the case passed to issue.

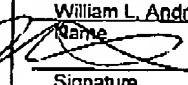
Please charge any additional costs incurred by or in order to implement this Request for Reconsideration or required by any requests for extensions of time to KODA & ANDROLIA DEPOSIT ACCOUNT NO. 11-1445.

Respectfully submitted,

KODA & ANDROLIA

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